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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

KENYAUN KNOX,

Defendant and Appellant.

B287795

(Los Angeles County
Super. Ct. No. MA071590)

APPEAL from a judgment of the Superior Court of
Los Angeles County, Stephen I. Goorvitch, Judge. Affirmed.

Leonard J. Klaif, under appointment by the Court of
Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler,
Chief Assistant Attorney General, Lance E. Winters, Assistant
Attorney General, Paul M. Roadarmel, Jr., and Charles J. Sarosy,
Deputy Attorneys General, for Plaintiff and Respondent.

Appellant and defendant Kenyaun Knox received a life sentence for aggravated mayhem (Pen. Code, § 205)¹ for attacking a man with a metal pipe and causing serious injuries to his head and arms. Knox contends that his conviction must be reversed because there was insufficient evidence to prove that his victim suffered permanent disability or disfigurement, or that he acted with the specific intent to inflict such an injury. We affirm.

FACTS AND PROCEEDINGS BELOW

Late in the evening on June 30, 2017, Knox engaged in a fistfight with a man named Craig W. at a barbershop in Palmdale. Craig ran a car detailing business in the adjacent parking lot and used the barbershop to store his mini-bike and his work equipment. Knox had worked as a barber in the facility for about a month and had a sometimes contentious relationship with Craig.

Craig brought his motorized mini-bike inside the shop at approximately 11:00 p.m., and Knox complained about the odor of fumes from the bike. As Craig was exiting the barbershop's restroom, Knox punched him without warning. The two fought briefly and then stopped. Craig went out to the parking lot and sat in his car. Knox could not find his cellular phone, so he went out and asked to borrow Craig's phone to call his own phone. This proved unsuccessful, and Knox began pacing back and forth, cursing Craig and accusing him of having taken Knox's phone.

After about 10 minutes, Knox walked up to Craig and swung a metal pipe at him. The pipe hit Craig in the left forearm, which he had raised to defend himself. Craig got out of the car, and Knox hit him with the pipe two more times in the head. Knox then got into the car, where Craig had left the keys in the ignition, and chased Craig around the parking lot,

¹ Unless otherwise specified, subsequent statutory references are to the Penal Code.

unsuccessfully trying to hit him. Knox eventually gave up and drove away. Later that night, a police officer discovered Craig's car a few blocks away with a bloody lead pipe and Knox's phone inside it.

Craig suffered several broken bones in his left arm, and his right ring finger was nearly severed. He suffered multiple gashes on his head that required 14 staples to repair. Doctors inserted a metal rod with 11 screws into Craig's left forearm in order to stabilize the broken bones. The metal rod was still in Craig's arm at the time of Knox's trial. In addition, Craig still felt numbness in his right ring finger and was barely able to make a closed fist.

At trial, Knox claimed that Craig attacked him and stole his cellular phone. He denied striking Craig with a pole and denied driving away in Craig's car. He claimed he did not know how Craig was injured that night.

An information charged Knox with carjacking (§ 215, subd. (a); count 1); assault with a dangerous or deadly weapon (§ 245, subd. (a)(1); counts 2-4); aggravated mayhem (§ 205; count 5); and attempted murder (§§ 664, 187; count 6.) The information also alleged that Knox inflicted great bodily injury (§ 12022.7, subd. (a)) in the commission of assault with a dangerous or deadly weapon in count 2, and that he had previously been convicted of a serious felony (§ 667, subd. (a)(1)), a strike (§§ 667, subds. (b)-(j), 1170.12, subd. (b)) and a prison prior (§ 667.5, subd. (b)).

A jury convicted Knox of assault with a dangerous or deadly weapon in count 2 and found true the allegation of inflicting great bodily injury. The jury also found Knox guilty of aggravated mayhem in count 5. The jury acquitted Knox of the four remaining counts. Knox admitted the prior strike and serious felony conviction.

The trial court sentenced Knox to 19 years to life imprisonment. The sentence consisted of seven years to life

for aggravated mayhem, doubled because of Knox’s prior strike, plus five additional years for the serious felony enhancement pursuant to section 667, subdivision (a)(1). The court imposed the high term on the conviction for assault with a dangerous or deadly weapon but stayed the sentence pursuant to section 654.

DISCUSSION

I. Sufficiency of the Evidence of Aggravated Mayhem

To be guilty of aggravated mayhem, a person must “intentionally cause[] permanent disability or disfigurement of another human being or deprive[] a human being of a limb, organ, or member of his or her body.” (§ 205.) Knox contends that there was insufficient evidence to show the required injury, as well as his mental state. In other words, he argues that no reasonable jury could conclude that he inflicted a permanent disability or disfigurement on Craig, nor that he specifically intended to do so. We disagree.

“When reviewing a challenge to the sufficiency of the evidence, we ask ‘ “whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” ’ (*People v. Edwards* (2013) 57 Cal.4th 658, 715 . . . , quoting *Jackson v. Virginia* (1979) 443 U.S. 307, 319) Because the sufficiency of the evidence is ultimately a legal question, we must examine the record independently for ‘ “substantial evidence—that is, evidence which is reasonable, credible, and of solid value” ’ that would support a finding beyond a reasonable doubt. (*People v. Boyce* (2014) 59 Cal.4th 672, 691)” (*People v. Banks* (2015) 61 Cal.4th 788, 804.)

A. *Permanence of the Injuries*

Knox contends that the prosecution failed to introduce sufficient evidence to show that his victim suffered “permanent disability or disfigurement.” (§ 205.) He notes that the trial took place approximately four months after Knox attacked Craig. At that time, some of Craig’s injuries had not yet healed—in particular, he still had a metal rod in his left arm, continued to experience numbness in his right hand, and could not throw a football to his sons. Nevertheless, Knox contends that, without expert medical testimony, a jury could not reasonably conclude that Craig’s injuries were truly permanent, and that they would not heal on their own.

We acknowledge the difficulty in determining at a trial, a relatively short period of time after an incident, whether a victim’s injuries would result in a truly permanent disability or disfigurement, or whether they would eventually heal. There may indeed be cases in which it is necessary to elicit expert medical testimony on the question. But this is not one of those cases.

As Knox acknowledges, “the possibility that a victim’s disfigurement might be alleviated through reconstructive surgery is no bar to a finding of ‘permanent’ injury.” (*People v. Williams* (1996) 46 Cal.App.4th 1767, 1774.) This is because “[a]dvances in medical technology do not . . . in any way diminish the culpability of one who intentionally disfigures another.” (*People v. Hill* (1994) 23 Cal.App.4th 1566, 1574.) To allow a defendant to escape punishment for mayhem because a doctor was able to heal a victim’s wound through advanced treatment would allow the perverse result that “culpability might vary depending on the quality of the medical care available to the victim.” (*Ibid.*) It appears likely that many of the injuries Craig suffered would have resulted in permanent disfigurement if not for advanced medical intervention. These include the gashes Craig suffered

to his head, which required the insertion of staples, as well as a severely broken left arm. At the time of the trial, Craig still had a metal rod inserted in his left arm, and he testified that “[o]ne arm [was] bigger than the other one.” The clearest case of a permanent disfigurement, however, was the injury Craig suffered to his right ring finger, which was almost completely severed and had to be “sewn back on” after Knox attacked him. It does not require medical expertise to know that a detached finger will not heal itself. (See Evid. Code, § 801, subd. (a) [expert testimony appropriate only for subjects “sufficiently beyond common experience that the opinion of an expert would assist the trier of fact”].) On this basis alone, a jury could reasonably conclude that Craig’s injuries indeed resulted in permanent disability or disfigurement for purposes of a conviction of aggravated mayhem.

B. *Specific Intent to Disfigure*

Knox also contends that there was insufficient evidence to show that he acted with the specific intent to disfigure Craig, as is required for aggravated mayhem. (See *People v. Park* (2003) 112 Cal.App.4th 61, 64 (*Park*).) He argues that the evidence shows that he attacked Craig indiscriminately, without the goal of causing a permanent disfigurement or disability.

Because the question of specific intent requires determining the defendant’s state of mind when committing the crime, the relevant evidence “‘is almost inevitably circumstantial’ [Citation.] A jury may infer a defendant’s specific intent from the circumstances attending the act, the manner in which it is done, and the means used, among other factors.” (*People v. Ferrell* (1990) 218 Cal.App.3d 828, 834 (*Ferrell*).) Specific intent “‘may not be inferred solely from evidence that the injury inflicted actually constitutes mayhem; instead, there must be other facts and circumstances which support an inference of intent to maim rather than to attack indiscriminately.’” (*People v. Assad* (2010) 189 Cal.App.4th

187, 195 (*Assad*).) In addressing the mental state required for aggravated mayhem, courts have focused on the nature of the attack. “‘Evidence that shows no more than an “indiscriminate attack” is insufficient to prove the required specific intent.’” (*Ibid.*) On the other hand, “a controlled and directed attack” to a specific part of the victim’s body is sufficient. (*Ferrell, supra*, 218 Cal.App.3d at p. 835.)

Knox argues that the evidence showed that he attacked Craig indiscriminately, and may have intended to cause significant injury, but did not intend to maim. We are not persuaded. Although Craig suffered injuries to multiple parts of his body, the evidence indicated that Knox targeted his head. The injuries to Craig’s arms occurred when Craig attempted to block Knox’s blows. Knox’s actions were thus similar to those by the defendant in *Park, supra*, 112 Cal.App.4th 61. In that case, the court held that there was sufficient evidence of specific intent to maim because the defendant attacked with a weapon using a powerful motion that “gave his blows more force”; specifically “aimed at an extremely vulnerable portion of [the victim]’s body: his head”; and “stopped his attack once he had maimed [the victim]’s face.” (*Id.* at p. 69.) By contrast, Knox’s actions were much more severe than those by the defendant in *People v. Lee* (1990) 220 Cal.App.3d 320, where the court found insufficient evidence of specific intent to maim. In that case, the defendant attacked the victim with his hands and feet, and there was no evidence that the attack was focused on a particular part of the victim’s body. (*Id.* at p. 326.)

In addition, the viciousness and relentlessness of Knox’s attack provided circumstantial evidence of a specific intent to maim. Knox struck Craig multiple times on his arms in addition to his head, and after finishing the initial attack, he proceeded to attempt to run him over with his car.

II. Resentencing under Senate Bill No. 1393

We requested supplemental briefing to determine whether we should remand this case to the trial court for further proceedings in light of Senate Bill No. 1393, which became effective after Knox's initial sentencing but before his case became final. Under the new law, the trial court has discretion to strike prior serious felony convictions under section 667, subdivision (a)(1) for purposes of sentencing. The Attorney General concedes, and we agree, that Senate Bill No. 1393 applies retroactively to Knox's case. The Attorney General, however, contends that a remand is inappropriate in this case because the trial court's actions and statements indicated that it would not strike the enhancements even if it had the discretion. Knox's attorney did not file a supplemental brief requesting remand, presumably because he agrees that remand would be futile. Given the facts of this case, his position is not unreasonable. Accordingly, we will not remand the case to allow the court to consider striking the enhancements.

Knox admitted a prior conviction in 2011 for robbery (§ 211), a serious felony for purposes of sentencing under section 667, subdivision (a). (See §§ 667, subd. (a)(4); 1192, subd. (c)(19).) The trial court accordingly imposed a five-year enhancement on Knox's convictions for attempted mayhem and for assault with a dangerous or deadly weapon. The court stayed the latter enhancement pursuant to section 654.

The trial court considered and rejected sua sponte the possibility of striking Knox's prior strike conviction pursuant to *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497. The Attorney General points out that a similar analysis applies to both inquiries, and the trial court's refusal to strike Knox's strike indicates that the court would also decline to strike the enhancements under section 667, subdivision (a). The People also rely on the trial court's statement during the sentencing

hearing that it had “decided to impose the maximum sentence allowable under the law.” The court reasoned that Knox’s actions in this case were “egregious” and that his prior criminal history alone justified imposing a high term sentence.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

JOHNSON, J.

BENDIX, J.